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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,251

09/30/2003

Joon-Seop Kwak

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09/03/2004

BURNS DOANE SWECKER & MATHIS L L P
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EXAMINER

MULPURI, SAVITRI

ART UNIT

PAPER NUMBER

2812

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/673,251	Applicant(s) KWAK ET AL.	
	Examiner Savitri Mulpuri	Art Unit 2812	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-27 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-27,31-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-27,31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawai (US 6468902)in combination with Nunoue (US 5,905,275).

Kawai teaches a method of forming light emitting devices by the following process steps: Providing a sapphire substrate, successively forming n-semiconductor layer "53", first cladding layer "54", first waveguide layer "55", active layer "56", second waveguide layer"57", second cladding layer "58", contact layer "59" and forming p-electrode and n-electrode. Kawai further teaches etching the sapphire substrate from the bottom side of the sapphire substrate to expose n-semiconductor contact layer. With respect to claims 11,22,35, Kawai, in one embodiment, teaches coating metal layer as a shielding layer "36" on the etched portion of the sapphire substrate and forming additional metal layer as pad layer.

Kawai discloses substantially same process as instant claimed process for making light emitting devices except etching the sapphire substrate by mixture of chlorine and argon. Nunoue discloses a method of light emitting diode formed on sapphire substrate, wherein sapphire substrate is etched by dry etching technique in chlorine and argon mixture (see fig. 1a, 7A-7G and col.4, lines 356-52). It would have

been obvious to of ordinary skill in the art to etch sapphire substrate by dry etching technique in the mixture of chlorine and argon in the invention Kawai because Nunoue teaches dry etching also suitable to form trenches in the sapphire substrate to form tapered sidewalls for forming ohmic contact in the trenches (see 1A, 7A-7G and col.8, lines 19-29). It is well known that electrodes are formed of either light transmitting or light reflective materials (see admitted prior art, para 0006).

Response to Amendment

Applicant's arguments filed on 6/17/2004 have been fully considered but they are not persuasive. In page 9, applicant argues that Kawai does not describe, "Dry etching a region of the high resistant substrate using a reaction gas comprising at least chlorine boron trichloride to expose the first semiconductor layer. However, such dry etching technique with mixture of chlorine and argon is suggested in the secondary reference by Nunoue to form via in the sapphire substrate. Modified invention by Kawai would have hole via hole formed by dry etching with mixture of chlorine and argon as suggested by Nunoue.

Applicant further argues that kiwi does not teach light transmitting layer in the exposed portion of the first conductive layer. However, it is well known in the art to form first and second electrodes, which are made of either light reflective or light transmitting materials (see admitted prior art, para 0006 and fig1)

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Savitri Mulpuri whose telephone number is 571-272-1677. The examiner can normally be reached on Mon-Fri from 8AM to 4.30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling, can be reached on 571-272-1679. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Savitri Mulpuri
Primary Examiner
Art Unit 2812